FINAL REPORT
OF THE
COUNTY GOVERNMENT STUDY COMMISSION

Indiana Legislative Services Agency
200 W. Washington St., Suite 301
Indianapolis, Indiana 46204-2789

November 2002

INDIANA LEGISLATIVE COUNCIL
2002

Speaker John Gregg **Chairman** **Sandborn**	**Senator Robert Garton** **Vice-Chairman** **Columbus**
Representative Brian Bosma **Indianapolis**	**Senator Richard Young** **Milltown**
Representative Mark Kruzan **Bloomington**	**Senator Harold Wheeler** **Larwill**
Representative Dale Grubb **Covington**	**Senator Joseph Harrison** **Attica**
Representative William Cochran **New Albany**	**Senator Patricia Miller** **Indianapolis**
Representative Charlie Brown **Gary**	**Senator Thomas Wyss** **Fort Wayne**
Representative Kathy Richardson **Noblesville**	**Senator James Lewis** **Charlestown**
Representative Richard Mangus **Lakeville**	**Senator Earline Rogers** **Gary**

Philip J. Sachtleben
Executive Director
Legislative Services Agency

County Government Study Commission

Membership Roster

Representatives	Senators
Peggy Welch, Chair Bloomington	Becky Skillman, V. Chair Bedford
Tiny Adams Muncie	Rose Antich Merrillville
Thomas Saunders Lewisville	Mark Blade Terre Haute
Matthew Whetstone Brownsburg	Steven Johnson Kokomo

Lay Members

John Catey Richmond	Otis Cox Anderson	Al Dillon Richmond	Garland Ferrell Lebanon
Frank Fritch Tipton	Vernon Jewell Columbus	Richard Jones Jeffersonville	Douglas Lechner Needham
Raymond Lueken Celestine	Jean Paul Lushin Kokomo	Bill Mansard Terre Haute	Dave Niezgodski South Bend
Tom Rethlake Columbia City	John Rooda Merrillville	Tim Skinner Terre Haute	Kelly M. Thompson Logansport

Legislative Services Agency Staff

Chris Baker, Fiscal Analyst
George Angelone, Staff Attorney

November 2002

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Commission can be accessed from the General Assembly Homepage at http://www.state.in.us/legislative/.

FINAL REPORT

County Government Study Commission

I. STATUTORY AND LEGISLATIVE COUNCIL DIRECTIVES

The Indiana General Assembly enacted legislation [P.L. 109 -1997 amended by P.L. 28-2001 (HEA 1629-2001)] directing the Commission to study the following:

(1) How to improve the effectiveness and efficiency of county government by examining the functions and duties associated with all elected county officials and departments of county government. The Commission shall focus on how these functions and duties relate to the functions and duties of other elected county officials, departments of county government, and other state and local governmental entities.

(2) The functions and duties of elected county officials and departments of county government that should be more clearly defined by statute to avoid disputes over allocation of power of county government.

(3) The functions and duties of elected county officials and departments of county government that should be eliminated, altered, or reassigned to other elected county officials, departments of county government, or other state or local governmental entities.

II. SUMMARY OF WORK PROGRAM

The Commission met three times during the 2002 interim.

At the first meeting, September 5, 2002, the Commission discussed and heard testimony on the following items:

1) Accomplishments from the 2002 legislative session.
2) The effect of HEA 1001-2002 (ss) on county government.

At the second meeting, October 3, 2002, the Commission discussed and heard testimony on the following items:

1) County sheriff meal allowances.
2) The effect of HEA 1001-2002 (ss) on county government.

At the third meeting, October 22, 2002, the Commission discussed and heard testimony on the following items:

1) Indianapolis Chamber of Commerce presentation.
2) Review of preliminary drafts.
    - PD 3640 (Wagering Tax revenue sharing)
    - PD 3644 (Notification of property tax changes repeal)
    - PD 3648 (Accountability plans for prisoner meal allowances)
    - PD 3660 (Notification of property tax changes)
    - PD 3661 (Notification of property tax changes)

HJR 9206 (Terms of local elected officials)
3) Voted on adoption of final report.

III. SUMMARY OF TESTIMONY

The Commission heard testimony on the following topics:

1) Effects of HEA 1001-2002(ss) on county and township officials.
2) Sheriff meal allowances.
3) Holdover offices.

This summary divides the testimony into the three topics listed above and presents highlights of the testimony offered during Commission meetings. The stating of a policy position or recommendation in this summary of the testimony does not signify either Commission support or disapproval of the matter. The narrative merely reflects a variety of ideas and positions presented to the Commission by persons addressing the Commission.

(1) Effects of HEA 1001-2002(ss).

Several county and township officials, the Association of Indiana Counties (AIC), the Indiana Township Association (ITA), the Indiana County Treasurer's Association (ICTA), the Indiana Farm Bureau, and the Hoosier State Press Association (HSPA) testified on the effects of **Section 210** of HEA 1001-2002(ss). (Section 210 requires the county treasurer to mail to all taxpayers a statement showing the comparison of the taxpayer's property tax liability before and after the enactment of HEA 1001-2002(ss). Included on the statement must be the following: "Your assessing officials have completed a general reassessment of all real property in the county. The reassessment was necessary to comply with Indiana law. The Indiana General Assembly has increased the property tax replacement credit and made other changes to the property tax system to substantially reduce the effects that this reassessment may have on your property tax liability.")

Mr. David Bottorff of the AIC made a presentation describing how the requirement of Section 210 is affecting the county officials. He included descriptions of the problems with the calculation of two tax rates and the changes necessary to tax forms to show the differences in the rates. Additionally, testimony indicated that county computer systems are not able to calculate the two different rates.

Mr. Paul Ricketts, Lawrence Township Assessor (Marion County) indicated that he perceived difficulty in compliance within the time frame given, and he also stated that the costs to comply were high, particularly with computer expenses. Mr. Ricketts reported that the cost to Marion County for computer and software updates, etc., has been $200,000. He said there was not enough time to reprogram the software to calculate the two tax rates required by law.

Mr. Greg Jordan representing the ICTA presented an estimate of the property tax differences for various parcels as a result of HEA 1001-2002(ss).

Mr. Barry Wood, Washington Township Assessor, discussed staffing issues within his office as a result of the property tax changes in HEA 1001-2002(ss).

The Commission received testimony and discussed reducing counties' difficulties with compliance by replacing required mailings of property tax rate changes to taxpayers with the printing of one or two examples in local newspapers.

Mr. Steve Key of the HSPA testified on the effectiveness of public notices as a means to inform voters.

Mr. Robert Lee, Allen County Treasurer, testified that at 150,000 parcels, his cost would be $18,000 for the additional mailings to taxpayers due to Sec. 210. He estimated the cost for mailing in Marion County at $24,000.

Ms. Katrina Hall, Indiana Farm Bureau, said that the Department of Local Government Finance (DLGF) should have the information on hand to present a meaningful breakdown of property taxes by taxing district. She said there is an information gap for taxpayers from the changes of HEA 1001-2002(ss). She also said that the General Assembly has an opportunity to provide that information to taxpayers, and she would like to see the process of providing property tax information move forward.

Mr. William Waltz, Commissioner, Indiana Board of Tax Review (IBTR), said that from the IBTR's viewpoint a large spectrum of properties exist that may not match typical profiles printed in the newspaper. He said the IBTR had concern that this may have an effect on appeals.

Testimony was also received concerning county and township levy changes made in HEA 1001-2002(ss).

Mr. Steve Buschmann, representing the ITA, presented a letter to the Commission outlining the concerns of the townships. He indicated the changes in the growth quotients for the maximum levy (moving from local determination of growth to state figures) was problematic for townships.

Ms. Nancy Marsh, Hendricks County Auditor, presented a handout to the Commission members where she noted the comparison between Hendricks County and Vigo County being of similar population, but indicated that Vigo County was allowed twice as much maximum levy than Hendricks County in 2002. With the growing demands for county funds, Ms. Marsh said that Hendricks County is stretched to the limit and would like to be able to comply with the requirements of HEA 1001-2002 (ss), Sec. 210.

Mr. Bottorff stated that prior to HEA 1001-2002 (ss) the growth rate was based on growth in assessed valuation (AV). Under the new law, the growth rate is driven by the state economy, more specifically non-farm personal income. Personal income growth was low in Indiana, about 2.7% in 2002. Referring to Exhibit B, Mr. Bottorff explained that under the new system, Floyd, LaGrange, Starke, Harrison, Hamilton, and Hendricks Counties would be able to appeal to receive an additional growth factor above 4.8%. Under the old system, Floyd County, in particular, would not have to appeal to receive an additional growth rate. He stated that counties that qualify for a higher levy should be able to do so without the appeal process.

The Commission also heard testimony of the effects of HEA 1001-2002 (ss) on the distribution of riverboat wagering revenue.

Mr. Buschmann explained that townships are confused over the use of some of that revenue for fire protection. However, he is concerned that is not how the new law reads; rather, the new funds are intended for fire pensions. He recommended revising the limitations on the use of revenue sharing funds generated by gaming.

Mr. Bottorff testified that gaming revenue shared by counties could also be used for TIF replacement and property tax replacement. He also stated that the AIC was keeping up with the needs of the counties concerning economic development.

Ms. Judy Sharp, Monroe County Assessor, described the condition of Monroe County finances. She indicated that the county does not receive the advantage of growth as other counties do, but that Monroe County has experienced an increase in population. She suggested relaxing the riverboat revenue sharing restrictions. Ms. Sharp stated funds are really needed to re-computerize, not for fire pensions.

Matt Brooks testified that there is concern that distributions from gaming revenue do not currently have a growth mechanism. He stated that distributions are generally small, and that he would like to see local units receive larger shares based on the rate of inflation.

Tonya Galbraith, Indiana Association of Cities and Towns, said that gaming revenue sharing should be expanded, and allowing the distribution for any use by the local unit makes sense. She agreed that distributions should grow with inflation.

(2) Sheriff meal allowances.

Mr. Bruce Hartman, State Board of Accounts (SBA), described the methods for sheriffs' compensation in Indiana. Mr. Hartman also described the ways in which a sheriff can be held accountable for the expenses made, including vendor names on bank checks and detailed ledgers maintained by the sheriff. He pointed out that it is difficult to hold a sheriff accountable if a ledger is not properly maintained. Ms. Tammy White, SBA, agreed that expenses should be recorded in detail, otherwise it is difficult to know what transactions have occurred. Mr. Hartman stated that even if a ledger had detailed entries, there is no way to determine the exact items purchased. Current practice, according to Mr. Hartman, is for the SBA to stress itemization and encourage sheriffs to submit a report of expenses.

Mr. Hartman also described the differences of plans that counties establish with their sheriff. The first plan is an accountable plan where unused money from the meal allowance is returned by the sheriff to the county. With an accountable plan, the county will know how much of the meal allowance was spent. Since the unused money was returned to the county, it is not recorded on the sheriff's W-2. This plan has two effects: less taxes withheld on the W-2 and a lower pension base than with an un-accountable plan.

Further, under a county un-accountable plan, the sheriff must declare meals as a personal business expense for tax purposes. Earnings reported on a W-2 would include the total amount paid for meal allowances. Counties often base the sheriff's pension to their W-2 earnings. A sheriff with leftover meal allowance under an un-accountable plan would have higher wages reported on their W-2, which would result in an increase to the pension calculation.

Indiana counties may use either an accountable or an un-accountable plan.

Commission member Mr. Frank Fritsch, Tipton County Sheriff, stated that he preferred an accountable plan where the county and the sheriff reached a contract agreement, and where the sheriff knows what he will be paid and keeps track of his expenses. Otherwise, sheriffs generally have to pay out-of-pocket to make up the difference in expenses required to feed inmates. He said that many smaller counties do not like to contract with their sheriffs.

Carolyn Elliot, representing the Indiana Sheriff's Association, expressed the willingness of the Sheriff's Association to work on this issue.

Mr. Thomas Fruechtenicht, representing the Indiana Sheriffs' Association, said that approximately two-thirds of Indiana counties are on an accountable plan with their sheriffs. Ten of the approximately 30 remaining counties have a un-accountable plan.

Mr. Mike Eslinger, Executive Director of the Indiana Sheriffs' Association, testified on the differences of an accountable plan and a un-accountable plan with respect to sheriff meal allowances. He stated that the main reason that smaller counties do not wish to contract with their sheriff is that under an accountable plan, leftover meal allowance money is reported on the sheriff's W-2 and goes towards the sheriff's pension.

Matt Brooks, Executive Director of the Association of Indiana Counties, said in the last few years the Association has seen more counties go to an accountable plan with their sheriffs. He said from reading the draft, he was unclear about the IRS standards listed in PD 3648.

(3) Holdover Offices

Chairperson Welch noted the passage of the SJR 12-2002 (P. L. 87-2002) concerning holdover offices, which was recommended by the Commission during the 2001 interim. Mr. Al Dillon offered a motion recommending a similar resolution for adoption by the General Assembly in 2003. The motion was seconded by Representative Tiny Adams. The Commission voted to have the resolution drafted again for consideration.

Additional testimony concerning local government roles in the future was made by Senator Johnson. His comments addressed social security and health insurance funding. He emphasized the need to reshape the business of government and expressed concern that in the future, local governments will not be able to meet their obligations, particularly in economic hard times.

IV. COMMITTEE FINDINGS AND RECOMMENDATIONS

Finding One: The Commission determined that the accountability of sheriff meal allowances should be debated further.

Recommendation One: The Commission adopted PD 3648 (16-1) to the General Assembly for further discussion of the issue. PD 3648 requires sheriffs to account for the feeding of prisoners in counties where accounting is not currently required by law. It requires the reimbursement plans to meet the requirement of an accountability plan under the Internal Revenue Code.

Finding Two: The Commission determined that further work is necessary regarding the requirement of county treasurers to mail property tax notices concerning the changes of HEA 1001-2002(ss).

Recommendation Two: The Commission failed to adopt PD 3660 (6-11), but adopted PD 3644 (13-4) for introduction into the General Assembly. PD 3644 requires full repeal of Section 210 HEA 1001-2002(ss).

Finding Three: The Commission determined that counties and other local units of government need greater flexibility for uses of gaming revenues.

Recommendation Three: The Commission adopted PD 3640 (17-0) for introduction into the General Assembly. PD 3640 eliminates the use restrictions of gaming revenue distributed to local units.

Finding Four: The General Assembly needs to correct the problem of holdover offices. Dates need to be changed for beginning terms of county officers in order to establish a uniform schedule of starting dates. (This proposed amendment has been previously agreed to by the 2002 General Assembly.)

Recommendation Four: HJ 9206 should be introduced to continue the process of amending the Indiana Constitution. The amendment would allow the General Assembly to fix the date of election for constitutional county elected officials, thereby correcting the problem of holdover offices. The text of the joint resolution was approved 17-0.

W I T N E S S L I S T

David Bottorff, Association of Indiana Counties
Matt Brooks, Association of Indiana Counties
Steve Buschmann, Indiana Township Association
Carolyn Elliot, Indiana Sheriff's Association
Mike Eslinger, Indiana Sheriff's Association
Thomas Fruechtenicht, Indiana Sheriff's Association
Tonya Galbraith, Indiana Association of Cities and Towns
Katrina Hall, Indiana Farm Bureau
Bruce Hartman, State Board of Accounts
Senator Steve Johnson
Greg Jordan, Indiana County Treasurer's Association
Steve Key, Hoosier State Press Association
Robert Lee, Allen County Treasurer
Nancy Marsh, Hendricks County Auditor
Robert McKee, Tippecanoe County Assessor
Paul Ricketts, Lawrence Township Assessor, Marion County
Judy Sharp, Monroe County Assessor
William Waltz, Commissioner, Indiana Board of Tax Review
Tammy White, State Board of Accounts
Barry Wood, Washington Township Assessor, Marion County